

May 2, 2002

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Office of the Secretary
445 - 12th Street, SW
Washington, DC 20554

RE: WT Docket No. 02-55, Improving Public Safety Communications in the 800 MHz Band;
Consolidating the 900 MHz Industrial/Land Transportation and Business Pool Channels

Dear Mr. Caton:

East River Electric Power Cooperative, Inc. (East River) is the wholesale power supplier serving 22 member distribution systems throughout eastern South Dakota and western Minnesota. These member systems in turn supply power to more than 77,000 rural member consumers. East River operates more than 2,600 miles of high voltage transmission lines, 200 substations, and related power facilities to meet the needs of its member systems. As part of its system operation, East River operates extensive telecommunications facilities to assure the highest standards of system reliability and efficiency. These include a private fixed microwave system, fiber optic facilities, and extensive use of VHF, UHF, and 800 MHz radio for voice communications and for data communications associated with remote control, data acquisition, and load management. East River is a "small entity" as defined by the Small Business Administration, and is a member of National Rural Electric Cooperative Association (NRECA) and United Telecom Council (UTC) who are also filing comments in this proceeding.

On March 14, 2002, the Commission issued its Notice of Proposed Rule Making (NPRM) in WT Docket No. 02-55, which seeks to resolve public safety interference in the 800 MHz band. This rule making could have a dramatic effect on the future of East River's 800 MHz mobile radio system. This system serves the mission critical need for mobile communications required for the safe and efficient operation of East River's high voltage power transmission network and the mobile communications requirements of eleven of East River's member rural electric cooperatives. Additionally, the system is shared with numerous public safety, local government, rural telephone and water systems, and industrial users in the largely rural area served by East River. All users benefit from this reliable, interference free communications system.

East River's 800 MHz system was installed in 1994 after an in-depth study of various alternatives available for the replacement of East River's VHF low-band mobile radio system, which had been operational since the early 1950's. This study revealed an 800 MHz wide-area trunked radio system was the only feasible alternative available for providing the "seamless" roaming capabilities and coordinated communications required by East River and its member cooperatives. A search for a possible service provider throughout the service territory revealed no commercial services were available and, in fact, cellular coverage was not available in many areas of our service area.

The East River 800 MHz radio system has been operated as a cooperatively shared system since October 1996 when the Yankton County 911 Center, Sheriffs' Department, and Police Department in South Dakota started using the system. Since then, many other public safety agencies, governmental bodies, and industrial users have joined in the cooperative agreement and today over 2,000 mobile and portable radio units are utilizing the network. Currently, East River operates 22 sites on its network, which covers the eastern half of South Dakota and portions of western Minnesota. Public safety and critical infrastructure users are enjoying the benefits of this modern digital wide-area trunked radio system where commercial service is not available and private operation of systems incorporating state of the art technology is cost prohibitive. These users are not currently experiencing any adjacent system interference from cellular carriers' digital systems.

Because of the significant impact on our system, East River is participating in this proceeding, initiated by the Commission in response to a White Paper filed by Nextel in November 2001. The Nextel proposal would have a devastating impact on the users of the East River 800 MHz system. The proposal would necessitate that all Business and Industrial/Land Transportation licensees, as well as Public Safety Pool licensees, move from their present assignments in the 800 MHz band. While Nextel proposed to set aside \$500 million to pay the costs of relocating public safety licensees from their existing frequencies, no mention is made of the enormous costs of relocating Business and Industrial/Land Transportation licensees, including the users of the East River system. Under the Nextel plan, East River's system could continue to operate on a secondary/non-interference basis on their present frequencies. East River's system users would be forced to either take advantage of guaranteed replacement assignments on a first-come, first served basis or take their chances on future relocation spectrum availability. Users with critical communications requirements, such as those being served by the East River radio system, cannot accept secondary status or afford to take chances on the future of reliable radio communications.

East River has invested in excess of \$3 million in the 800 MHz radio system. This does not include the costs of the mobile and portable radios used by non-East River entities that utilize the system or the towers, equipment shelters, and microwave and fiber communications network which are utilized to support the system along with other mission critical telecommunications applications. The cost of the mobile and portable radios alone is in excess of \$4 million. The equipment currently utilized would not be compatible with the 900 MHz band proposed by Nextel. Moreover, equipment operating in the 900 MHz band does not offer the same capabilities as offered by the 800 MHz band. The cost of replacing the site-based equipment with 900 MHz equipment alone is estimated to be in excess of \$2.6 million. The cost to replace the mobile and portable radios in use by East River and its member cooperatives would be in excess of \$1 million. The cost to replace the mobile and portable radios in use by other entities currently sharing the network would be in excess of \$4 million.

The Nextel proposal may seem attractive because it purports to seek solutions for eliminating harmful interference to adjacent systems caused by Nextel and cellular carriers' digital systems, and it would create additional traditional Public Safety spectrum. However, it would cause enormous harm to critical infrastructure users – which is an area of national concern no less important than public safety emergency communications. In the case of the East River system,

the Nextel plan may also prove to be cost prohibitive to our public safety, local government, cooperative, and small commercial users.

East River is familiar with the complexity and cost implications of spectrum management and licensing issues. We have just completed replacement of our 2 GHz microwave communications network, which had been in operation since 1979, with a hybrid fiber optic and 6 GHz microwave network. This relocation was required in response to the Commission's reallocation of the 2 GHz radio spectrum for the Personal Communications Service (PCS) in 1992. While the PCS operators that purchased the 2 GHz frequencies at auction were required to reimburse the relocation costs for portions of the network with which they directly interfered, East River received only slightly more than \$1 million from the PCS operators to offset the replacement costs, which totaled more than \$10.5 million.

Spectrum issues also clouded the initial installation of the East River 800 MHz radio system. East River originally filed applications to license the system as a Specialized Mobile Radio (SMR) system in January 1994. Processing delays resulted in a Special Temporary Authority (STA) being granted in July, and, subsequently, the Commission suspended review of SMR applications in August. Timely construction of this system was critical to the operation of East River; hence, applications for licensing in the Business Radio Service were filed as an alternative while the processing of SMR applications was frozen. The STA was extended repeatedly until the licenses were ultimately granted in the Business Radio Service in September 1995. East River's applications for SMR licenses were denied in October 1995. However, an error in the processing of the applications was discovered and a Petition for Reconsideration was filed with the Commission in November 1995. That petition still remains pending at this time.

We urge the Commission to reject the Nextel proposal as unduly costly and burdensome and to consider addressing the instances of interference issue in line with the Commission's rules for resolving interference. We would also suggest that the Commission consider whether its current rules are adequate, as apparently harmful interference is occurring when parties are in compliance with the rules. We note the NPRM discusses the interference being experienced as generic and the result of advances in technology, not due to a single licensee or that licensee's style of system implementation. The NPRM leaves many questions unanswered and remains silent in several important areas. Most notably for East River, there is no discussion of the reimbursement of relocation costs for Business Radio licensees. In fact, there is a reference to another proceeding wherein microwave facilities serving CATV systems were relocated to other frequencies with the incumbent operators being required to pay all of their own relocation costs. The burden of unreimbursed costs will fall to our electric consumers who we receive no benefit in return as there is no interference problem in our area. At the very least, any plan to be given serious consideration should ensure that adequate spectrum is available to meet the needs of critical users and should require reimbursement of all relocation costs associated with forced spectrum relocations.

Reducing adjacent-system interference and providing additional traditional Public Safety spectrum are important goals that East River fully supports. However, critical infrastructure entities, including electric utilities such as East River, also rely on 800 MHz systems for mission-critical control and support of basic services, which are no less vital than public safety. We urge

the Commission to weigh carefully the impact of the Nextel proposal, as well as any other proposals received, that would affect any of the critical users of the 800 and 900 MHz bands. Any changes proposed must seek to minimize the impact to not only public safety users, but to the critical infrastructure companies that also provide services vital to every citizen.

Sincerely,

Jeffrey L. Nelson
General Manager

JLN/jc

cc: Senator Tom Daschle
Senator Tim Johnson
Congressman John Thune
Senator Paul Wellstone
Senator Mark Dayton
Congressman Mark Kennedy
Congressman Collin Peterson